

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 7
:
SHANE PATRICK ASSOCIATES, INC. :
:
DEBTOR : BKY. NO. 18-16941-pmm

MICHAEL H. KALINER, TRUSTEE :
PLAINTIFF :
:
v. :
:
DURHAM SPRINGS HOLDING LLC :
DEFENDANT : ADV. NO.

COMPLAINT FOR TURNOVER

Michael H. Kaliner, Esquire, (the “Trustee”), the Chapter 7 Trustee for the Estate of Shane Patrick Associates, Inc. (the “Debtor”), by and through his counsel, Fox Rothschild LLP, brings this adversary proceeding, pursuant to Fed.R.Bankr.P. 7001, for turnover of property of the Debtor’s Estate pursuant to §542 of Title 11 of the United States Code and, in support thereof, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §1334(b) and 28 U.S.C. §157(a), which is a civil proceeding arising under or arising in or related to a case under the Bankruptcy Code.
2. This is a core proceeding as defined by 28 U.S.C. §157(b)(2)(A) and (E).
3. Venue of this adversary proceeding is properly in this district pursuant to 28 U.S.C. §1409(a).
4. This adversary proceeding is commenced pursuant to Rule 7001 of the Federal Rules of Bankruptcy Procedure.

5. By this adversary proceeding, the Trustee seeks the turnover of accounts receivable in the amount of \$302,005.11 (the “Funds”) by the Defendant, Durham Springs Holding LLC (the “Defendant”), for which is due and owing to the Debtor as of the Petition Date.

6. The statutory predicate for relief sought herein is §542 of the Bankruptcy Code.

PARTIES

7. Plaintiff is Michael H. Kaliner, Esquire, (the “Trustee” or “Plaintiff”), the Chapter 7 Trustee for the Estate of Shane Patrick Associates, Inc. (the “Debtor’s estate”).

8. Durham Springs Holding Limited Liability Company (the “Defendant”) is an individual, corporation, limited liability company, partnership or sole proprietorship, whose state of incorporation, organization, existence or residence is unknown.

9. The Defendant has a last known mailing address of 5065 Lehnenberg Road, Kintnersville, PA, 18930.

FACTUAL BACKGROUND

10. On October 18, 2018 (the “Petition Date”), the Debtor filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of Pennsylvania.

11. Shortly thereafter, Michael H. Kaliner, Esquire was appointed as Trustee, which appointment remains in effect.

12. A review of the books and records of the Debtor’s estate by the Trustee has disclosed that the Defendant owes the Estate \$302,005.11 for services performed by the Debtor. A copy of the summary of amounts owed, with invoice dates and numbers, is attached hereto as Exhibit A.

13. Demand for turnover was made by the Trustee, which has gone unanswered. The Funds in the total amount of \$302,005.11 are accounts receivable due and owing by the Defendant.

COUNT I – TURNOVER OF PROPERTY OF THE ESTATE

14. Section 541 of the Bankruptcy Code defines property of the Estate as “all legal or equitable interests of the debtor in property as of the commencement of the case.” 11 U.S.C. §541(a)(1).

15. Section 542 of the Bankruptcy Code gives a trustee the power to seek turnover of all property of the Debtor’s Estate. 11 U.S.C. §542.

16. Section 542 states, in pertinent part, that:

“...an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, shall pay such debt to, or on the order of, the trustee...”

11 U.S.C. §542(b).

17. The Trustee submits that the Funds are valuable and beneficial to the Estate.

18. Despite demand for turnover, the Defendant has failed to and/or refused to turn over the property of the Estate, consisting of \$302,005.11.

WHEREFORE, the Trustee prays for the entry of an Order directing the Defendant to turn over the amount of \$302,005.11 to the Trustee, and for such other and further relief as is just.

Date: September 8, 2020

FOX ROTHSCHILD LLP

/s/ Edward J. DiDonato

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